

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

HENDRIK BLOCK,

Plaintiff,

v.

ESKANDAR T. ALZAMZAMI dba Fatboy  
Market, et al.,

Defendants.

Case No. 1:23-cv-00061-SKO

**ORDER TO SHOW CAUSE RE  
SUPPLEMENTAL JURISDICTION**

**14 DAY DEADLINE**

On January 12, 2023, Plaintiff Hendrik Block (“Plaintiff”) filed his Complaint against Defendants Eskandar T. Alzamzami dba Fatboy Market and Nahla Mohammed Muharram (“Defendants”). (Doc. 1.) The Complaint asserts a claim for injunctive relief arising out of an alleged violation of the federal Americans with Disabilities Act and a claim for damages pursuant to California’s Unruh Act. (*Id.*) No defendant has appeared in this action, and default has been entered. (Doc. 7.)

Based upon the recent Ninth Circuit opinion in *Vo v. Choi*, the Court will order Plaintiff to show cause why the Court should not decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim. *See* 28 U.S.C. § 1367(c); *Vo v. Choi*, 49 F.4th 1167 (9th Cir. 2022) (holding the district court properly declined to exercise supplemental jurisdiction in a joint Unruh Act and ADA case).

In the Unruh Act, a state law cause of action expands the remedies available in a private action. California, in response to the resulting substantial volume of claims asserted under the Unruh Act and the concern that high-frequency litigants may be using the statute to obtain monetary relief

1 for themselves without accompanying adjustments to locations to assure accessibility to others,  
 2 enacted filing restrictions designed to address that concern. *Arroyo v. Rosas*, 19 F.4th 1202, 1211–  
 3 12 (9th Cir. 2021). These heightened pleading requirements apply to actions alleging a  
 4 “construction-related accessibility claim,” which California law defines as “any civil claim in a civil  
 5 action with respect to a place of public accommodation, including but not limited to, a claim brought  
 6 under Section 51, 54, 54.1, or 55, based wholly or in part on an alleged violation of any construction-  
 7 related accessibility standard.” Cal. Civ. Code § 55.52(a)(1).

8 California imposes additional limitations on “high-frequency litigants,” defined as:

9 A plaintiff who has filed 10 or more complaints alleging a construction-related  
 10 accessibility violation within the 12-month period immediately preceding the  
 11 filing of the current complaint alleging a construction-related accessibility  
 violation.

12 Cal. Civ. Proc. Code § 425.55(b)(1). The definition of “high-frequency litigant” also extends to  
 13 attorneys. *See* Cal. Civ. Proc. Code § 425.55(b)(2). “High-frequency litigants” are subject to a  
 14 special filing fee and further heightened pleading requirements. *See* Cal. Gov. Code § 70616.5; Cal.  
 15 Civ. Proc. Code § 425.50(a)(4)(A). By enacting restrictions on the filing of construction-related  
 16 accessibility claims, California has expressed a desire to limit the financial burdens California’s  
 17 businesses may face for claims for statutory damages under the Unruh Act. *See Arroyo*, 19 F.4th at  
 18 1206-07, 1212. The Ninth Circuit has also expressed “concerns about comity and fairness” by  
 19 permitting plaintiffs to circumvent “California’s procedural requirements.” *Vo*, 49 F.4th at 1171.  
 20 Plaintiffs who file these actions in federal court evade these limits and pursue state law damages in  
 21 a manner inconsistent with the state law’s requirements. *See generally, Arroyo*, 19 F.4th at 1211–  
 22 12; *Vo v*, 49 F.4th at 1171-72.

23 In an action in which a district court possesses original jurisdiction, that court “shall have  
 24 supplemental jurisdiction over all other claims that are so related to claims in the action within such  
 25 original jurisdiction that they form part of the same case or controversy under Article III of the  
 26 United States Constitution.” 28 U.S.C. § 1367(a). Even if supplemental jurisdiction exists,  
 27 however, district courts have discretion to decline to exercise supplemental jurisdiction. 28 U.S.C.  
 28 § 1367(c). Such discretion may be exercised “[d]epending on a host of factors” including “the

1 circumstances of the particular case, the nature of the state law claims, the character of the governing  
 2 state law, and the relationship between the state and federal claims.” *City of Chicago v. Int’l Coll.*  
 3 *of Surgeons*, 522 U.S. 156, 173 (1997).

4 Here, a review of Plaintiff’s prior cases from this District reveals that he has filed ten or  
 5 more complaints alleging a construction-related accessibility violation within the twelve-month  
 6 period immediately preceding the filing of the current complaint. *See Jacobsen v. Mims*, No. 1:13-  
 7 CV-00256-SKO-HC, 2013 WL 1284242, at \*2 (E.D. Cal. Mar. 28, 2013) (“The Court may take  
 8 judicial notice of court records.”).

9 Accordingly, Plaintiff is ORDERED to show cause, in writing, **within fourteen (14) days**  
 10 **of service of this order**, why the Court should not decline to exercise supplemental jurisdiction  
 11 over Plaintiff’s Unruh Act claim. Plaintiff is warned that a failure to respond may result in a  
 12 recommendation to dismiss of the entire action without prejudice. Fed. R. Civ. P. 41(b) (stating that  
 13 dismissal is warranted “[i]f the plaintiff fails to . . . comply with . . . a court order”); *see also Hells*  
 14 *Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005). An inadequate  
 15 response may result in the undersigned recommending that supplemental jurisdiction over Plaintiff’s  
 16 Unruh Act claim be declined and that the Unruh claim be dismissed without prejudice pursuant to  
 17 28 U.S.C. § 1367(c).

18  
 19 IT IS SO ORDERED.

20 Dated: **March 18, 2023**

*/s/ Sheila K. Oberto*  
 UNITED STATES MAGISTRATE JUDGE